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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/732,729	12/11/2000	Katsuei Tanabe	2000-1686A	2321

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EXAMINER

MEREK, JOSEPH C

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 06/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

2c

<b>Office Action Summary</b>	<b>Application No.</b> 09/732,729	<b>Applicant(s)</b> TANABE ET AL.	
	<b>Examiner</b> Joe Merek	<b>Art Unit</b> 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 December 2000.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All   b) ☐ Some \*   c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 7 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It has not been adequately disclosed how the plane of intersection of the protrusions is perpendicular to the circumference of the side wall since the wall is continuously tapered. The plane would be at an angle less than 90 degrees since the side wall is tapered.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It has not been adequately disclosed how the plane of intersection of the protrusions is perpendicular to the circumference of the side wall since the wall is continuously tapered. The plane would be at an angle less than 90 degrees since the side wall is tapered. It is unclear what is being claimed.

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***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zimmer in view of Sequin. Regarding claim 1, Zimmer, as seen in Figs. 1 and 2, teaches a cup with a base but does not teach the lid for hermetically sealing the container body. Sequin, as seen in Figs. 1-7, teaches a similar cup structure with a lid for hermetically sealing the container body. It would have been obvious to employ the lid of Sequin in the container of Zimmer to protect the contents or to prevent spills. Regarding claim 2, see Fig. 3, where it is shown that the shell is held fast on the cup. Regarding claim 3, see Fig. 2 and Col. 4, lines 3-15, where it is stated that the smaller end may be adhesively secured to the container body.

7. Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zimmer in view of Sequin as applied to claim 1 above, and further in view of Schrepper. Regarding claims 4 and 6, the modified container of Zimmer does not teach the protrusions on the outer surface of the side wall and the smaller end of the exterior shell engages the protrusions when on the container body. Schrepper, as seen in Figs. 2 and 8-10, teaches a container with protrusions on the outer surface of the container body and the smaller end of the exterior shell engages the

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protrusions when on the container body. It would have been obvious to employ the protrusions of Schrepper in the container of Zimmer to hold the outer shell to the container body as taught by Schrepper. The protrusions are located on the container body at positions on the side of the tapered end portion of the body with respect to the axially middle portion of the side wall of the container body as seen in Fig. 1 of Schrepper. Regarding claim 7, as it is best understood, see Fig. 1 of Schrepper, where the protrusions are arranged at intervals in a ring. The plane of intersection of the protrusions is perpendicular to an axis of the container body and the circumference of the side wall of the container body. The plane will be perpendicular to the circumference since the lower sidewall is vertical as modified by Schrepper.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zimmer in view of Sequin as applied to claim 1 above, and further in view of Shumrak. Regarding claim 5, the modified container of Zimmer does not teach that the cup is held off the surface when the cup is inserted into the inverted exterior sleeve. Shumrak, as seen in Fig. 1-3, teaches a cup and a sleeve where the cup is held off the support surface whether inverted or upright. It would have been obvious to modify container of Zimmer to hold the cup off the support surface when outer sleeve is inverted to prevent rings on the support surface.

### *Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Koziol teaches an inverting holder for a ice cream cone. Gingras teaches a ice cream

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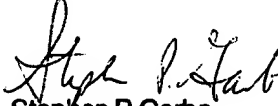
protector with a lid and a body. D'Ercoli and Wanderer both are cited for teaching protrusions on the container body for holding the sleeve on the container body. Benson is cited for teaching that the sleeve does not have to extend past the container bottom. Serritella is cited for teaching a no-spillable lid.

10. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses in Office Actions directly into the Group at (703) 305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by Applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joe Merek whose telephone number is (703) 305-0644.

Joe Merek/jm

June 3, 2002

  
Stephen P. Garbe  
Primary Examiner